IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 11385 of 2007(E)

AGAINST THE ORDER IN IA.908/2007 IN
OS.198/2007 of MUNSIFF COURT,CHAVAKKAD

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PETITIONERS:

1. DEVASURYA INN PVT. LTD.,
   KUNNAMKULAM REPRESENTED BY ITS CHAIRMAN BALAN,
   AGED 55 YEARS, S/O CHENNAN, MULAKKAL HOUSE,
   ARATHATTU VILLAGE, THALAPPALLY TALUK,
   THRISSUR.

2. MANAGING DIRECTOR, MR. BIMAL,
   S/O BALAN, MULAKKAL HOUSE,
   ARATHATTU VILLAGE, TAHALAPPALLY TALUK,
   THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

RESPONDENTS:

1. MONI, DRIVER, AGED 40 YEARS,
   S/O VARATHAPPAN, CHEMMANNUR,
   PORKULAM VILLAGE, TALAPPALLY TALUK.

2. ANIL DAS, AGED 42 YEARS,
   S/O RAMANKUTTY, VELLADIYAMKUNNATH,
   PORKULAM VILLAGE, TALAPPALLY TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 11385 of 2007

Dated this the 2nd day of April, 2007

JUDGMENT

Heard counsel for the petitioners.

Their grievance is that in O.S. 198/2007 filed by the 1st respondent against the 2nd respondent for recovery of money, property belonging to them and covered by Ext.P1 sale deed is attached; that the 2nd respondent was at no point of time the owner of Ext.P1 property and that pointing out all those aspects they filed Ext.P4 claim petition before the court below, but the court below has not disposed of the same till now and that they are put to irreparable injury and hardship, they being rendered unable to avail of loan pledging Ext.P1 property belonging to them. The grievance of the petitioners is not without merit.

In the result, I direct the Munsiff, Chavakkad to consider whether it is on the basis of any evidence of ownership of the 2nd respondent over the attached property that attachment was obtained by the 1st respondent and to consider the claim of the petitioners advanced under Ext.P4 and to dispose of Ext.P4 positively before closing of the courts on 13.4.2007. To enable the Munsiff to dispose of Ext.P4 before closing of the courts, the

petitioners are directed to produce a copy of this judgment before the Munsiff, Chavakkad positively on or before 7.4.2007. Issue copy of this judgment to the counsel for the petitioners on application as per rules, as expeditiously as possible.

This writ petition is disposed of with the above directions.

(K.P.BALACHANDRAN, JUDGE)

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